

ROBERT P. TROUT
(202) 464-3311
RTROUT@TROUTCACHERIS.COM

1627 EYE STREET, N.W.
SUITE 1130
WASHINGTON, D.C. 20006
(202) 464-3300
FAX (202) 464-3319

WWW.TROUTCACHERIS.COM

June 4, 2019

By Hand

Honorable Jerrold Nadler, Chairman
House Committee on the Judiciary
Washington, DC 20515-6216

Re: Hope Hicks

Dear Chairman Nadler:

This responds to the subpoena from the House Committee on the Judiciary issued on May 21, 2019, to our client, Hope Hicks. As you know, as part of her cooperation with the Committee, Ms. Hicks voluntarily provided documents to the Committee on March 22, 2019 (HCH0001 – 0030). Three documents were withheld at that time pending further instructions from the White House regarding executive privilege.

For the purpose of our discussion of the issues, we have divided the documents into two categories:

1. Documents that Ms. Hicks had in her possession.

Ms. Hicks had in her possession documents from the period of the campaign, the transition, or Ms. Hicks's tenure at the White House. I have been advised that it is the position of the White House that any documents she prepared during her time in the White House remain under the control of the White House and are therefore not to be disclosed to anyone else without the authorization of the White House. I have also been advised by the White House that documents during Ms. Hicks's tenure at the White House are potentially protected by White House confidentiality interests or subject to a claim of executive privilege. With respect to the transition documents in Ms. Hicks's possession, I have been advised by the Presidential Transition Team (PTT) that it is their position that those documents remain under the control of the PTT and are therefore not to be disclosed to anyone else without the authorization of the PTT. I have also been advised that it is the opinion of the White House and of the Department of Justice that documents during the transition period may also be subject to a claim of executive privilege. Because we have not been authorized to disclose Ms. Hicks's documents from the transition period and from the time that she served in the White House, we respectfully decline to provide those documents to the Committee.

TROUT CACHERIS & SOLOMON PLLC

Honorable Jerrold Nadler

June 4, 2019

Page 2

With respect to the documents that Ms. Hicks had in her possession, we are enclosing a disc containing responsive documents from the campaign period, marked HCH0031 – 0033. We have redacted from these documents personal identifying information such as private email addresses and phone numbers. This disc does not include any documents that we already provided to the Committee on March 22, 2019.

2. Documents provided to Ms. Hicks's counsel.

The White House, the PTT, and the Trump campaign all provided documents to us, as Ms. Hicks's counsel, in advance of her interviews with Congressional committees and the Office of Special Counsel. We received those documents with the understanding that they were provided to us for the limited purpose of preparing Ms. Hicks for those interviews, and we were not authorized to use them for any other purpose or to disclose them without the permission of the party providing the documents to us. In that sense, we do not regard these documents as within Ms. Hicks's control. The decision whether to produce these documents is not hers to make; it is the professional obligation of her counsel that they not be produced without authorization from the party providing the documents to counsel. With respect to the documents provided by the White House, the White House has not authorized counsel to produce these documents, and in addition the White House has advised that these documents are potentially protected by White House confidentiality interests or subject to a claim of executive privilege. With respect to the documents provided by the PTT, the PTT has also declined to authorize counsel to produce these documents, and in addition the PTT has advised that these documents are potentially subject to executive privilege. We are therefore not producing documents provided to counsel for the purpose of assisting in the preparation of Ms. Hicks for her interviews.

As you know, the accommodation process involving discussions between the White House and Congress is the normal way these sensitive issues are resolved. Given the institutional interests at stake, it would not be appropriate for Ms. Hicks unilaterally to take action that infringes on that process or otherwise deviates from longstanding practice for how these matters are normally resolved. Accordingly, in deference to the accommodation process, she respectfully declines to provide documents from the period covered by the transition and her tenure in the White House.

With respect to the documents counsel received from the Trump campaign to assist in preparing Ms. Hicks for interviews, we have not been authorized by the campaign to provide those to the Committee and, based on our professional obligations as counsel, will not be producing them. Based on an initial search of documents we have received from the Trump campaign, we have identified four documents, each containing a chain of emails, that respond to subpoena request #2. We have been advised that these four documents were previously produced by the Trump campaign to the House Permanent Select Committee on Intelligence as well as to other Congressional committees. To assist in your location of the documents that Congress already has, we are authorized to identify on the attachment to this letter, but not to produce, the emails shown on these four documents.

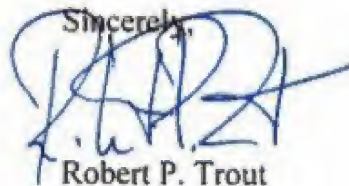
TROUT CACHERIS & SOLOMON PLLC

Honorable Jerrold Nadler

June 4, 2019

Page 3

Lastly, we are mindful that the Committee has requested a log of any documents withheld. As noted, most of the documents being withheld are not being withheld based on the content or character of the individual documents. Instead, they are being withheld because of the claim by the White House and the PTT that the documents are not Ms. Hicks's documents to produce and on the basis of counsel's professional obligation not to produce any documents that were provided to counsel for the sole purpose of assisting Ms. Hicks in preparing for her interviews. Under the circumstances, it would not be appropriate, nor would it serve any purpose, to log each individual document being withheld. In addition, the White House and transition period documents are being withheld on instructions from the White House in view of the fact that they may be subject to White House confidentiality interests or executive privilege. We have been advised that it is the longstanding practice within the White House and the Department of Justice not to provide a privilege log when asserting executive privilege. Ms. Hicks and her counsel do not believe it is appropriate for her unilaterally to deviate from this longstanding practice or otherwise to take action that impacts the normal accommodation process for resolving issues of executive privilege. For all of these reasons, absent further direction from the White House or the PTT, we do not believe it is appropriate for us to provide the requested log at this time.

Sincerely,

Robert P. Trout

RPT/mt

Enclosures

cc: Honorable Doug Collins, Ranking Member, House Committee on the Judiciary

Attachment to June 4th, 2019 Letter to the Honorable Jerrold Nadler

Log of Campaign Emails that Respond to Subpoena Request No. 2

Date/ Time	From	To
08/18/2015 9:56 AM EST	Georgi Asatryan	Hope Hicks
09/25/2016 9:23 AM EST	Kellyanne Conway	Hope Hicks
09/25/2016 10:16 AM EST	Hope Hicks	Kellyanne Conway CC: Steve Bannon
11/09/2016 5:27 AM EST	Sergey Kuznetsov	Hope Hicks
11/09/2016 10:26 AM EST	Hope Hicks	Jared Kushner
11/09/2016 10:28 AM EST	Dimitri Simes	Jared Kushner
11/09/2016 10:39 AM EST	Jared Kushner	Dimitri Simes
11/09/2016 1:05 AM EST	Jared Kushner	Hope Hicks